REMARKS

Claims 1-30 remain pending.

In the Office Action, the Examiner required restriction between the following groups:

I.   Claims 1-18 and 23-30

II.   Claims 19-22

In the event Group I is elected, the Examiner required election between the following sub-groups:

I.   Claims 1-3, 5, 6, 7, 9, 23-28

II.   Claims 4, 8, 10-18, 29, and 30

The Examiner also stated that claims 1 and 9 are generic to claims 1-8 and 9-13.

Applicant provisionally elects Group I (claims 1-18 and 23-30) and sub-group I (claims 1-3, 5, 6, 7, 9, 23-28) <u>with traverse</u> for the following reasons.

First, groups I and II are not, in fact, related as subcombination/combination as alleged. Neither prong of the two-way test is satisfied.

To begin, the Examiner alleges without further proof or elaboration that the "particulars are not claimed" in the combination. Leaving aside the utter lack of evidence for a moment, this is simply not true. Claim 19 (Group II), for example, recites a memory, one processor to compress video data if the system is in a storage mode, and another processor to perform an image processing operation if the system is in an image processing mode. All of these elements also may be found in, for example, claim 14 (Group I). Thus, Group II does, contrary to the

Examiner's allegation, require the particulars of Group I. The restriction requirement is improper for at least this reason.

To continue, the Examiner alleges that Group I has separate utility "such as an analog to digital video data transfer mechanism." Again, this statement is self-serving and unsupported by any evidence, reasoning, etc. Also, it is incorrect. Group I, for example, does not contain the word "analog," so Applicant fails to see how these claims as written function as an analog-to-anything mechanism. Moreover, as explained above, Groups I and II have the identical, claimed utility of, among other things, compressing video data if in a storage mode, and performing an image processing operation if in an image processing mode. Mere unsupported allegation by the Examiner does not alter this. The restriction requirement is improper for at least this additional reason, and it should be withdrawn.

Turning to the election requirement, it is also improper, because Sub-groups I and II are not proper species. It is axiomatic that species are mutually exclusive. Nothing in the "at least one processor" language of claim 1 or the "first programmable processor" language of claim 9 (both in sub-group I) excludes, for example, the "second programmable processor" of claim 14 (sub-group II). This is because the claims in sub-group I are drafted using "comprising," an open-ended and inclusive claim term. Hence, these two sub-groups are not properly "species" merely because there are differences in their claim language and structure. This election requirement is improper and should be withdrawn.

For completeness, Applicant is puzzled at the inclusion of dependent claims (i.e., claims 4, 8, 10-13, 29, and 30) in a separate sub-group II from the claims that they further limit (i.e.,

claims 1, 9, and 23) in sub-group I. Dependent claims, which just further limit, cannot logically be mutually exclusive with the independent claims that they further define. The election requirement is improper for this additional reason.

Finally, although not specifically alleged in the Office Action, there is no "serious burden" on the Examiner to examine these 30 claims of related scope for which Applicant has paid extra claims fees to the Office. Their subject matter is so similar as to be encompassed in the same search. Even assuming, *arguendo*, the correctness of the classification on page 2, searching two sub-classes of the same class is not unduly burdensome, particularly in this age of keyword searching from one's desk. Accordingly, Applicant respectfully requests the examination of all claims, for which Applicant has paid the Office, without further delay.

Reconsideration and examination of all pending claims, 1-30, are respectfully requested.

In the event that any outstanding matters remain in this application, Applicant requests that the Examiner contact Alan Pedersen-Giles, attorney for Applicant, at the number below to discuss such matters.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-0221 and please credit any excess

fees to such deposit account.

Respectfully submitted,

Dated: <u>May 23, 2007</u>   <u>   /Alan Pedersen-Giles/   </u>
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